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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/674,643	11/02/2000	Vojin Jeremijevic	Q61622	8866

7590 10/03/2002

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EXAMINER

GHAFOORIAN, ROZ

ART UNIT	PAPER NUMBER
3763	

DATE MAILED: 10/03/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/674,643	JEREMIJEVIC, VOJIN
	Examiner Roz Ghafoorian	Art Unit 3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 30 July 2002.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-3 and 15-36 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-3 and 15-36 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a)  The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1, 3, 26-29, 30-32, and 36 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by U.S Patent 4790828 to Dombrowski et al.

Dombrowski discloses a self-capping needle assembly. It contains a sleeve with a through bore 45 defined on a given axis, a first link 58 having a first and second ends, a hinge means 50 for connection the first end of the link 58 to the sleeve 28, a base means 12 suitable for receiving the base end of the needle to be protected, a crank arm 56, the crank arm being no greater than the length of the link. It further contains a second link and crank arm. The first and second links and crank arm are situated substantially in a common plane and form substantially a quadrilateral whose diagonal are substantially perpendicular. (Figs 1-5) The devise is capable of having multiple positions, a "starting position" figure 2, a "in use position" which would be the position between figures 2 and 3, and a "locked position" figure 3.

2. Claims 15-22 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by U.S Patent No.5743888 to Wilkes et al.

Wilkes disclose a safely needle. Wilkes's apparatus contains a sleeve having a through bore a base secured to the base end of the needle and link means connecting the sleeve to the base, with 2 channels and shutter, the shutter being suitable for taking up a first position and a second position. (Figures 5-7) It further contains a flexible rod and a release cavity; means for locking the position of the second end of the flexible rod end

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it is retracted into the second channel portion (figures 8a-8g). The first part and second part formed on either side of the though bore the first part of the first channel portion being in line with the second channel portion. The rod the shutter is made as a single piece, of a plastic material. Wilkes also comprises of a firs link 67 and a first crank arm 67, the firs link having a first and second end, a resilient return hinge 69 for connecting the first end of the first link to the sleeve 15, said hinge means being organized so that said first link takes up a defined equilibrium position figure 4c on a direction that makes an acute angle with the axis of the through bore.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 2, 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S Patent 4790828 to Dombrowski et al., and further in view of U.S Patent No.5197954 to Cameron.

As mentioned above Dombrowski discloses a self-capping needle assembly. Dombrowski, does not disclose a base with two part attached via a weak point. However the idea of a mechanism that allows the caregiver to modify the syringe by breaking a part of the syringe is not new in the art and Cameron is only one example. Cameron teaches a hypodermic syringe having folding needle. Cameron's syringe

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contains a base with two parts allowing the caregiver to break the needle away once it has been used.

Therefore it would have been obvious to one having ordinarily skill in the art at the time the invention was made to have combined these two studies because according to Cameron the ability to break the needle away safely eliminated the problems of re-use and accidental injury from used hypodermic syringes. (Col.1, lines 35-40)

4. Claims 33-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S Patent 4790828 to Dombrowski et al, and further in view of U.S Patent No.4283493 to Schlesinger.

As mentioned above Dombrowski discloses a self-capping needle assembly. Dombrowski, however, does not disclose a sachet made of non-stretch material and being capable of tearing under a given traction. Schlesinger teaches a biological specimen collection and transport system.

Therefore it would have been obvious to one having ordinarily skill in the art at the time the invention was made to have combined these two studies because according to Schlesinger the sachet is simple to use and enhances prevention of the spread of infection during transportation and analysis of the collected specimen. (Col. 1, lines 65-67)

#### ***Response to Arguments***

5. Applicant's arguments filed 7-30-02 have been fully considered but they are not persuasive.

a. The applicant has argued that Dombrowski's hinge is located between two rigid portions 56 and 58 at the midpoint 54 whereas the applicant hinge is placed between the sleeve and the rigid portion. Furthermore the applicant has argued that Dombrowski's apparatus is not capable of having 3 distinct positions. However, as mentioned above there are several hinges on Dombrowski's apparatus hinge 34 which the applicant has pointed out is only one, the second hinge 50 is located between the rigid portion 58 and the sleeve 28. Furthermore Dombrowski's apparatus is capable of having 3 distinct positions, a "starting position" figure 2, a "in use position" which would be the position between figures 2 and 3, and a "locked position" figure 3.

b. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the first position of protection of the sharp end of the needle, the second position allowing the use of the needle and the third position of blocking for preventing a new use of the needle) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

### ***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roz Ghafoorian whose telephone number is 703-305-2336. The examiner can normally be reached on 8:30am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 703-308-3552.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

RG  
September 20, 2002



BRIAN L. CASLER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700